

**Town of Milford  
Zoning Board of Adjustment Minutes  
October 16, 2014  
Case #2014-17  
Carolyn Parker, along with  
Getty Realty Corp.  
Special Exception**

Present: Zach Tripp, Chairman  
Fletcher Seagroves, Vice Chair  
Michael Thornton

Excused: Laura Horning  
Joan Dargie  
Len Harten, Alternate  
Kathy Bauer, Board of Selectmen Representative

Secretary: Peg Ouellette

The applicant, Carolyn Parker, along with Getty Realty Corp, owner of Map 26, Lot 185 located at 4 Amherst St, in the Commercial district, are requesting a special exception from Article V, Section 5.05.2:A.3 to construct a new 24' x 30' overhead canopy within the front yard setbacks of Amherst and Mont Vernon Streets.

**Minutes Approved on November 6, 2014**

Zach Tripp, Chairman, opened the meeting by stating that the hearings are held in accordance with the Town of Milford Zoning Ordinance and the applicable New Hampshire Statutes. He continued by informing all of the procedures and introduced the Board. He read the notice of hearing into the record as well as the list of abutters. Carolyn Parker, representing Getty Realty Corp, owner Map 26, Lot 185 located at 4 Amherst St in the Commercial District, was present.

Chairman Tripp stated there were only three Board members present and informed the applicant that she has the right to have her hearing postponed until there is a full Board. Regardless of the number of Board members present she must have an affirmative vote from three Board members for approval. If she is comfortable with three Board members, she must sign a waiver. She agreed and signed the waiver.

Applicant's presentation:

C. Parker stated she is representing Lehigh Wholesale Gas, a long-time lessee with Getty, who are in the process of improving properties. One improvement is installing overhead canopies. Request for Special Exception is reduced front and side setbacks. This is a corner lot with two setbacks. They are requesting to put an overhead canopy for inclement weather. They are maintaining it as a full-serve station, not self-serve, at this time. Down the road if they want to become self-serve they would have to do fire suppression and try to get approval from the Fire Dept. The canopy will look like those in the drawing (in

the packet) with the BP colors and a green stripe. There will be no lettering, only the BP logo. The pumps, island and everything else will remain the same.

Z. Tripp said that from the diagram it appeared the pumps were already in the setback.

C. Parker agreed.

In response to question from Z. Tripp about the locations of the posts C. Parker said in order not to disturb underground piping they would be put at the outside of the island and install a safety bollard so no one hits the canopy. The two small existing lights would be removed. On the diagram the black squares are the canopy columns.

Z. Tripp asked the Board if there were any further questions.

F. Seagroves asked whether there would be any fire suppression for now.

C. Parker said that was only required if it was self-serve.

Z. Tripp asked about lighting under the canopy.

C. Parker said the canopy lighting is downward directional and will not cast any shadows off the property.

Z. Tripp asked for any further questions from the board. There were none.

He opened the meeting for public comment.

There were no further comments or questions and Z. Tripp closed the public portion of the hearing. He stated there was a telephone communications received regarding this case from the Church of Our Savior, an abutter, stating they had no issues with installing an overhead canopy at 4 Amherst St.

Z. Tripp asked the applicant to go through the criteria for a special exception.

**Description of proposed use:**

Install a new 24' x 30' overhead canopy within the required setback. Canopy will encroach approx. 22' on Amherst and 16.3' into Mont Vernon Street.

**1. The proposed use shall be similar to those permitted in the district:**

Gas station with service bays are a permitted use in the C Commercial District, as are Special Exceptions for the reduction in required setbacks. Throughout the Town's Commercial district there are many instances where the required setbacks cannot be met. This use would be similar to other existing gas stations in Town.

**2. The specific site is an appropriate location for the proposed use because:**

The site is currently a gas station, which has resided in the Commercial Zone for over 28 years. The installation of the overhead canopy, which is a standard when gas stations are built these days, will be an enhancement to the property. This site started as a gas station with service bays and will remain one along with it remaining a full serve gas station. New gas stations are not built on sites this small and setbacks are not usually an issue.

**3. The use as developed will not adversely affect the adjacent area because:**

The site is an existing gas station that had been in existence since 1986, Lehigh Wholesale Gas, the lessee only proposes to enhance the site with the addition of the overhead canopy. The surrounding properties will not be affected by this change.

**4. There will be no nuisance or serious hazard to vehicles or pedestrians:**

There will be no hazard to vehicle or pedestrians. In fact the addition of the overhead canopy will benefit the public by shielding them from the in climate weather and offer additional lighting while their vehicles are being fueled.

**5. Adequate appropriate facilities will be provided for the proper operation of the proposed use because:**

As mentioned above the use, a gas station with service bays is existing to remain and has been in operation for 28 years. We only propose to add an overhead canopy to the existing fuel dispensing area.

Z. Tripp asked about any plan for water management, a downspout on the big roof?

C. Parker said there was a downspout.

Z. Tripp asked if that type of detail was usually reviewed at the Planning Bd.  
C. Parker stated they were not going before the Planning Bd. It would probably be one spout and drain the way it always had off the property.  
M. Thornton commented it would have to be built strongly, for snow load.  
C. Parker said all that was being taken care of by Austin Mohawk, canopy manufacturer.

Z. Tripp asked if there were any additional questions. There were none.

Z. Tripp proceeded to a vote on the requirements.

**A. The proposed use shall be similar to those permitted in the district:**

M. Thornton – yes

F. Seagroves – yes. As stated in the office note, Snack Shack, Cumberland Farms, Shell and Ralph's all are in the same category.

Tripp – agreed. Gas stations are allowed in Commercial C per 5.05.1.D and reduced setbacks are allowed by 5.05.2.3. Other gas stations in the area, per F. Seagroves' comment, have overhead canopies.

**B. The specific site is an appropriate location for the proposed use:**

F. Seagroves – yes. That is where the pumps are, and as stated, to rearrange everything to meet setbacks would be a complete redesign. This was the only place that a canopy could go, over the pumps.

M. Thornton – yes. This was the only place to put a canopy, over the pumps.

Z. Tripp agreed. Per earlier testimony the pumps were already in the setback and the canopy would not protrude beyond the pumps in an unreasonable manner.

**C. The use developed will not adversely affect the adjacent area:**

M. Thornton – it will not.

F. Seagroves – it will not. There is at least one gas station across the bridge into the oval. Didn't think it would have any effect on adjacent area.

Z. Tripp agreed. There is a business across the street and across the street from Mont Vernon St there is a post office. The church which is next door stated they wouldn't have a concern with it. He didn't see how having this canopy would affect adjacent area.

**D. There will be no nuisance or serious hazard to vehicles or pedestrians:**

F. Seagroves – couldn't see any. Cars will be pulling in to get gas anyway. Canopy won't affect vehicles or pedestrians. They aren't going to put four posts around the edges that cars can run into.

M. Thornton – If a pedestrian were inconvenienced they would be running into the pump.

Z. Tripp agreed. His original concern was visibility at the odd corner coming through there. That was why he requested clarification of the columns. He didn't think they would cause any additional visibility concerns. Having the canopy up high would not restrict visibility or oncoming traffic. He's driven by there several times in recent weeks and paid closer attention. Coming south on Mont Vernon St might block the view of Amherst St but there is a stop sign. By the time you got to the stop sign you would have a view of the intersection. He didn't believe there would be any nuisance or serious hazard to vehicles or pedestrians.

**E. Adequate appropriate facilities will be provided for the proper operation of the proposed use:**

M. Thornton – yes. There were adequate and appropriate facilities. The only exception would be if it went to self-serve and fire suppression would have to be installed. But currently, he saw nothing to make it more unusual than any gas station in the area.

F. Seagroves said it was a canopy which would be there to keep people dry while pumping gas.

Z. Tripp agreed. The applicant was going through the permitting process and testified that the company has installed many canopies.

**Final Vote:**

**1. Is the exception allowed by the ordinance?**

M. Thornton – yes; Fletcher Seagroves – yes; Zach Tripp – yes

**2. Are the specific conditions present under which the exception may be granted?**

Fletcher Seagroves – yes; M. Thornton – yes; Z. Tripp - yes

Z. Tripp asked for a motion to approve the application.

F. Seagroves made the motion to approve Case #2014-17.

M. Thornton seconded the motion to approve Case #2014-17.

**Final Vote:**

**Fletcher Seagroves – yes M. Thornton – yes Zach Tripp – yes**

Case #2014-17 was approved by unanimous vote.

Z. Tripp reminded the applicant of the 30 day appeal period.

C. Parker inquired whether she had to record it with the registry, as is required in MA.

Z. Tripp and F. Seagroves advised her to check with the office on what is needed.